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SECOND COMMITTEE

FOR THE USE OF MEMBERS OF THE
INFORMAL CONSULTATIVE GROUP ON
LAND-LOCKED AND GEOGRAPHICALLY
DISADVANTAGED STATES

~~CONFIDENTIAL~~
(Note: Draft by Paraguay)

Provision

Definitions

For the purpose of this Convention:

The term "land-locked State" means a State which has no seacoast;

The term "transit State" means a State, with or without a seacoast, situated between a land-locked State and the sea, through whose territory the land-locked State may exercise its right of access to and from the sea;

The term "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, where the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change of transport, is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

The term "means of transport" means:

- (i) railway rolling stock, sea and river craft and road vehicles;
- (ii) where local conditions so require, porters and pack animals;
- (iii) oil pipelines, gas pipelines and tanks when they are used for traffic in transit, and any other means of transport recognized by the parties in bilateral or regional agreements.

1. General principles of the law of the sea concerning land-locked countries

Provision

The existence and the nature of the right of land-locked countries to free access to and from the sea derive from the application of the principles and rules of the freedom of the seas and the designation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of that area, as the common heritage of mankind.

2. Rights and interests of land-locked countries

2.1. Free access to and from the sea: freedom of transit, means and facilities for transport and communications.

Provision

Land-locked States shall enjoy the right of free transit through the territories of transit countries by all means of transport and communication. The modalities of the exercise of such free transit shall be agreed between the land-locked States and the neighbouring transit States by means of bilateral or regional agreements, in accordance with the provisions of this Convention and upon conditions no less favourable to the land-locked States than the latter provides.

Provision

In order to exercise the right of free navigation of the seas, as well as the right to explore and exploit the ... zone of neighbouring coastal States and the area of the sea-bed and ocean floor beyond the limits of national jurisdiction on terms of equality with the coastal States, land-locked States shall enjoy the right of free access to and from the sea in accordance with the provisions of this Convention.

Provision

The provisions of this Convention which govern the right of free access of land-locked States to and from the sea shall not abrogate existing special agreements between two or more States, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

In case such existing agreements provide less favourable conditions than those contained in this Convention, the States concerned undertake to bring them into accord with the provisions of this Convention on the earliest occasion possible.

Provision

The provisions of this Convention, as well as such special agreements as regulate the exercise of the right of free access to and from the sea, shall not be invoked by third States for the application of the most-favoured-nation clause.

Provision

Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.

If the port installations and equipment or the means of transport and communication existing in a transit State are primarily used by one or more land-locked States, the tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned.

Means of transport in transit used by land-locked States shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

Provision

For the convenience of traffic in transit, free zones, free warehouses or other facilities may be provided at agreed ports in transit States, by agreement between those States and land-locked States.

Such zones shall be exempted from the application of the customs regulations of the coastal States. They shall however remain subject to the jurisdiction of those States with regard to security, police and public health regulations.

Provision

Land-locked States shall have the right to appoint in the free zones officials of their own who shall be empowered, in accordance with the practice of the States concerned, to arrange for the berthing of vessels carrying cargo bound for or coming in transit from the land-locked State and to make arrangements for and supervise the loading and discharging of such vessels, as well as to issue documents and render other necessary services for the speedy and smooth movement of traffic in transit.

Provision

Where there are no means of transport and communication in the transit States to give effect to the rights of free transit and free access to the sea or where the existing means, including the port installations and equipment, are inadequate and capable of improvement in any respect, the land-locked States shall have the right to construct, extend or improve them in agreement with the transit State or States concerned.

Provision

Except in cases of force majeure all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.

Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of the land-locked States shall co-operate in order to eliminate them expeditiously.

2.2. Equality of treatment in the ports of transit States

Provision

Vessels of land-locked States shall enjoy equality of treatment, for traffic in transit, with vessels of transit States as regards all matters concerning access to and exit from existing and future authorized ports of the latter, and as regards the use of every kind of installation, facility and equipment of those ports.

3. Rights and interests of land-locked countries in regard to living resources of the sea

Provision

Land-locked States shall have the right to participate, alone or jointly with neighbouring coastal States, in the exploration and exploitation of the living resources of the ... zone of the latter on an equal and non-discriminatory basis.

The States concerned may decide upon appropriate arrangements to ensure the orderly development and rational exploitation of the living resources of the zone. Jurisdiction and control over the application of these measures shall lie with the coastal States of the respective zone.

4. Rights and interests of land-locked countries in regard to non-living resources of the sea

Provision

Land-locked States shall have the right to participate in the exploration and exploitation of the non-living resources of the ... zone of neighbouring coastal States jointly with the latter and upon equitable conditions, which shall be agreed upon between the parties concerned in bilateral or subregional agreements.

Provision

1. Land-locked States shall not transfer to third States the rights conferred on them by articles ... (see the last two provisions), except as otherwise agreed by the States directly concerned.

2. The provisions of paragraph 1 shall not, however, preclude land-locked States from obtaining technical and financial assistance from third States or competent international organizations in order to be able to participate more efficiently in the exploration and exploitation of the living and non-living resources of the ... zone.

5. Particular interests and needs of developing land-locked countries in the international régime

5.1. Free access to the international sea-bed area beyond the limits of national jurisdiction.

Provision

Land-locked States shall enjoy the right of free access to and from the area of the sea-bed, in order to enable them to participate in the exploration and exploitation of the area and its resources, in accordance with the provisions of this Convention.

5.2. Participation in the international régime, including the machinery, and the equitable sharing in the benefits of the area.

Provision

In any organ of the international sea-bed machinery in which not all member States are represented, in particular in its Council, there shall be a proportionate number of land-locked States.

Provision

In any organ of the machinery, decisions on questions of substance shall be made with due regard to the special needs and problems of land-locked States.

On questions of substance which affect the interests of land-locked States, decisions shall be made with the participation of the latter.